

or any combination thereof; provided however, that any one side of a used appliance yard shall be bounded by a fence or wall constructed of only one of the above materials.

- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(d) Any part of a fence or wall required by subsection (b) hereof may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

(e) Openings in the prescribed enclosure which are necessary to permit reasonable access to said used appliance yards, shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal business hours.

(f) It shall be unlawful for any owner or operator, the agents or employees of an owner or operator, to display, store or work on any appliance or the parts, accessories or junk therefrom outside of the herein required fence or wall.

(g) All used appliances, parts and other materials located in or on the premises of any used appliance yard in the city shall be so arranged as to allow reasonable access to and inspection of the premises by authorized fire, neighborhood protection, and police officials of the city.

(h) Failure to comply with any provisions of this section shall be grounds for the revocation of or the refusal to issue or renew any license required for the owner or operator of such used

appliance yard under any section or subsection of this Code. Any violation of any provisions of this section shall be a misdemeanor.

(Code 1968, § 28-64; Ord. No. 76-1017, §§ 1—9, 6-22-76; Ord. No. 91-1102, § 3, 7-31-91; Ord. No. 93-514, § 14, 5-5-93; Ord. No. 94-674, § 5, 7-6-94; Ord. No. 98-613, § 17, 8-5-98; Ord. No. 02-399, § 17, 5-15-02)

**Charter reference**—Penalties for ordinance violations, Art. II, § 12.

**Cross references**—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

**Secs. 7-3—7-15. Reserved.**

## ARTICLE II. ANTIQUE DEALERS

### Sec. 7-16. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Antique dealer* shall mean anyone who engages in the business of buying, selling, trading, or otherwise dealing in used items which, because of age or design or quality or intrinsic beauty, or rarity or demand or otherwise have a value enhanced over the original value of such goods.
- (2) *Show* shall mean any display and offering of used items for sale or trade by more than one dealer at a single location.
- (3) *Used* shall mean any items, goods, products, wares, chattels, or articles of any sort, which have previously been owned by someone other than the manufacturer, or dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the customer.

(Code 1968, § 6½-1; Ord. No. 76-146, § 1(1), 2-3-76)

### Sec. 7-17. License required; display.

No person shall operate as an antique dealer or own any such business without a license as herein provided. A separate license shall be required for

each permanent location of any such business. The license shall be posted in a conspicuous place upon the licensed premises.

(Code 1968, § 6½-2; Ord. No. 76-146, § 1(2), 2-3-76)

**Sec. 7-18. Application for and issuance or refusal of license.**

(a) Any person desiring a license required by this article shall make application therefor in writing to the tax assessor-collector on an application form provided for that purpose, stating where the business is to be located and the residence address of the owner or manager. Such application form shall be accompanied by an affidavit, sworn to by the applicant that neither he nor any business partner, nor, in the case of a corporation, any corporate officer, has had a license under this chapter or any preceding city ordinance governing the business described herein revoked.

(b) Upon receipt of such application, the tax assessor-collector or his designated deputy shall investigate the items sworn to by affidavit. If neither the applicant, his business partners, nor any corporate officers have had a license revoked as described above, the tax assessor-collector shall issue a license to the applicant upon payment of the license fee.

(c) If the tax assessor-collector rejects the application, he shall give written notice by certified mail, return receipt requested to the applicant at the address stated in the application. The written notice shall specifically set forth the reasons for the rejection.

(d) The applicant shall have 30 days from the date of the mailing of the notice of rejection to appeal the rejection of his application to the city council by filing written notice of such appeal with the city secretary. Upon receipt of such notice, the city council shall notify the applicant of the date and time of the hearing. At the hearing, city council shall hear evidence on the grounds for the rejection of the application. The city council shall sustain or overrule such rejection in writing within ten days after the conclusion of the hearing. The applicant shall be notified

of city council's written decision by certified mail, return receipt requested. The city council's action shall be final.

(Code 1968, § 6½-3; Ord. No. 76-146, § 1(3), 2-3-76)

**Sec. 7-19. License fees.**

(a) The license fee for antique dealers with a permanent place of business within the city shall be \$50.00 yearly, payable on or before the first day of January of each year. Such license, unless revoked as provided herein, shall be valid from January 1 through December 31 of the same year.

Each licensee with a permanent business location in the city may use the license for that business when attending shows at other locations in the city.

(b) Any dealer described herein who desires to sell items at shows in the city, but who does not maintain a permanent place of business in the city, must apply for and secure a license for each location. License fees for shows shall be \$2.00 per day.

(Code 1968, § 6½-4; Ord. No. 76-146, § 1(4), 2-3-76)

**Sec. 7-20. Records required to be kept.**

(a) Every person licensed as an antique dealer shall keep at his place of business a record book, in a form approved by the chief of police, in which he shall enter daily a full description of all personal property purchased or otherwise received at his licensed place of business. Such description shall include the date of receipt, the name and address of the person or place of business from which such item was received, and the driver's license or Texas personal identification certificate number of the person selling or otherwise giving the items. All entries in the record book shall be made legibly.

(b) In addition to the requirements set out in subsection (a) hereof, the property shall be fully described including, where customary in the business, the size, weight, material, length, number of items, capacity, and any other designations or descriptions customarily employed in the sale and purchase of such items.

(c) The licensee, his agents or employees shall obtain a receipt from the seller or transferor of the property. Such receipt shall be consecutively numbered and shall be dated on the actual date of the transaction and shall list the items sold or otherwise transferred. An accurate copy or record of receipts obtained shall be retained for a period of not less than three years, and shall be available for inspection upon request during business hours by any peace officer or authorized inspector of the tax assessor-collector's office.

(d) Every antique dealer, shall, upon request, submit and exhibit the various business records which are required to be maintained for inspection or copying to any peace officer or authorized inspector of the city tax assessor-collector. Failure

to maintain or to so permit the examination or copying of such records when required shall be a misdemeanor.

(Code 1968, § 6½-5; Ord. No. 76-146, § 1(5), 2-3-76)

**Sec. 7-21. Stock to be open for examination.**

The stock or inventory of any antique dealer that is openly displayed and available to the public shall at any time during ordinary business hours be accessible for examination by any peace officer or authorized inspector of the tax assessor-collector's office. Failure to permit an examination when requested shall be a misdemeanor.

(Code 1968, § 6½-6; Ord. No. 76-146, § 1(6), 2-3-76)

**Sec. 7-22. Articles to be retained at least seventy-two hours.**

No antique dealer shall sell, dismantle, deface or in any manner alter or dispose of any item purchased or otherwise received by him at his licensed place of business for seventy-two (72) hours after receipt. During such seventy-two-hour period, all items of property shall be stored or displayed at the dealer's business location, in the exact form received, and in a manner so as to be identifiable from the description entered in the record book. Such property shall not be kept so as to prevent or impede its examination hereunder.

(Code 1968, § 6½-7; Ord. No. 76-146, § 1(7), 2-3-76)

**Sec. 7-23. Purchasing or receiving goods of minors.**

No antique dealer shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor's parent or guardian shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent. It shall be the duty of such antique dealer to preserve and keep on file, and available for inspection, such written statements of consent.

(Code 1968, § 6½-8; Ord. No. 76-146, § 1(8), 2-3-76)

**Sec. 7-24. Change in business address.**

Should any person licensed under this article move his permanent place of business from the

place designated in such license to a new address, he shall immediately give written notice to the tax assessor-collector and have the change noted on his license. A fee of two dollars (\$2.00) payable to the tax assessor-collector is hereby levied for such a change.

(Code 1968, § 6½-10; Ord. No. 76-146, § 1(10), 2-3-76)

**Sec. 7-25. Revocation of license.**

(a) Upon written verified complaint filed by any person with the tax assessor-collector setting out facts alleging that any licensee under this article has, since the license was granted, violated the provisions of this chapter, or any state or federal statute involving the criminal offense of theft, or the provisions of section 37.09 or 37.10 of the Texas Penal Code or that the licensee falsified his original application for a license, the tax assessor-collector shall cause the allegations to be investigated.

(b) If just cause exists for a hearing on revocation of a license herein, the tax assessor-collector shall notify the licensee in writing by certified mail, return receipt requested, that a revocation hearing will be conducted at a specified time and place with reference to such complaint. A copy of the verified complaint shall be included, notifying the licensee of the allegations against him.

(c) At the hearing conducted by the tax assessor-collector or his authorized agent, all parties may present evidence and may be represented by licensed attorneys. All parties may question opposing witnesses.

(d) Based on a preponderance of the evidence, the tax assessor-collector or his authorized agent shall determine, whether the license should be revoked. A written copy of the decision shall be sent to all parties by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than thirty (30) days.

(e) In the event that the licensee's license is revoked, such licensee may appeal the revocation to the city council by notifying the city secretary in writing within fourteen (14) days after the revocation. A hearing before the city council shall

be set as soon as practicable. Failure to appeal within fourteen (14) days shall render the tax assessor-collector's decision final.

(f) At the hearing conducted by the city council, all parties shall have the right to be represented by a licensed attorney and shall have the right to cross-examine opposing witnesses. After hearing the evidence presented by both sides, the city council shall, based on a preponderance of the evidence, render its decision. A copy of the decision shall be sent to all parties by certified mail, return receipt requested, as soon after the conclusion of the hearing as practicable but in no event more than thirty (30) days. The city council action shall be final.

(Code 1968, § 6½-11; Ord. No. 76-146, § 1(11), 2-3-76)

**Sec. 7-26. Reports of property suspected stolen.**

(a) It shall be the duty of the licensee, his agents or employees to report immediately to the police department any offer to sell to the licensee, his agents or employees property which such licensee, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such licensee, his agents, or employees, shall also report any property acquired by the licensee which the licensee, his agents or employees, subsequently determine or reasonably suspect to be stolen property and the licensee, his agents or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

(b) It shall be unlawful for any licensee, his agents or employees to purchase an item of property on which are written or affixed the words "Property of the City of Houston" or other words demonstrating ownership by the city except in the following circumstances:

- (1) Where the person offering such property for sale is an employee of the city authorized by the city treasurer to make such a sale, and provides the licensee, his agents or employees with a written authorization from the city treasurer for the sale of such property; or

- (2) Where the person offering such property for sale presents at the time of such offer a valid receipt from the city treasurer evidencing the purchase of such property by the person offering such property.

(Code 1968, § 6½-12; Ord. No. 76-146, § 1(12), 2-3-76)

**Sec. 7-27. Exemptions from license fee.**

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code), of the United States Code, must obtain a license as required herein; provided however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this article apply to such organizations.

(Code 1968, § 6½-13; Ord. No. 76-146, § 1(13), 2-3-76)

**Secs. 7-28—7-50. Reserved.**

**ARTICLE III. JUNK DEALERS, SCRAP METAL PROCESSORS AND SECONDHAND DEALERS\***

**Sec. 7-51. Definitions; article inapplicable to automotive dealers.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Junk dealer* shall mean anyone who engages in the business of buying, selling, trading, or otherwise dealing in new or used scrap materials, including ferrous and nonferrous metal, brass, waste material, etc.
- (2) *Scrap metal processor* shall mean anyone, who from a fixed location engages in the business

\*Cross references—Automotive dealers, § 8-16 et seq.; auto wreckers and storage yards, § 8-101 et seq.; restriction on location of lots used for open storage by junk dealers and secondhand dealers, § 28-34; tire storage and tire carriers, § 21-181 et seq.